

REMARKS

The applicants have considered the Office action dated January 6, 2010, and the references it cites. By way of this response, claims 1, 60, 72, 76 and 110-112 have been amended. It is respectfully submitted that all claims are fully supported by the originally-filed specification. No new matter has been added. In view of the foregoing amendments and the following remarks, it is respectfully submitted that the pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

Examiner Interview Summary

The undersigned would like to thank Examiners Ryan and Beliveau for the courtesies extended in a telephonic examiner interview conducted on Thursday, March 4, 2010. The participants in the interview were Examiner Ryan, Examiner Beliveau and the undersigned. During the interview, the scope of the application relative to the *Aras* and *Link* references was discussed. Although no specific agreements were reached, the undersigned believes that the interview clarified the issues in the case in an effort to advance prosecution.

Claim 1

The Office action rejected independent claim 1 as being unpatentable over *Aras* (U.S. 5,872,588) in view of *Link* (U.S. 6,289,514) under 35 U.S.C. § 103(a). The applicants respectfully traverse this rejection.

Independent claim 1, as amended, recites a method comprising obtaining server metering data determined using a server metering device in communication with a VOD server, the VOD server configured to provide VOD content specifically to a first subscriber site among a plurality of subscriber sites, the server metering device being different from a site metering device and located separate from the first

subscriber site, the server metering device communicatively coupled to the VOD server using an interface separate from a distribution network used to convey the VOD content from the VOD server to the first subscriber site, and the server metering data also uniquely identifying the first subscriber site. The combination of *Aras* and *Link* fails to teach or suggest the server metering data and subscriber metering data as recited in amended claim 1 for at least the following reasons.

The Office action “emphasizes that *Aras*, and not *Link*, is cited as teaching monitoring user interaction with VOD content by way of server and subscriber data.” (See the Office action, p. 3.) However, *Aras*’ purported server and subscriber data, as interpreted by the Office action, fails to teach or suggest the server metering data and subscriber metering data recited in amended claim 1. For example, the Office action describes *Aras*’ server data as being determined by Monitor 1555 of *Aras*’ Home Station 111 and including Audio Visual Identifiers (AVIs) decoded from the Audio Visual Material (AVM) received at the subscriber’s home. (See the Office action, p. 7.) This same Home Station 111 in *Aras*’ system is also responsible for preparing the Behavior Collection Table (BCT) (which is also based on the decoded AVIs) that the Office action interprets to be subscriber data. (See the Office action, p. 7; see also *Aras*, 13:24-17:22, 24:28-25:57.) As such, the Office action is relying on the same device, *Aras*’ Home Station, located at the subscriber’s home to determine both the purported server data and the purported subscriber data.

In contrast, amended claim 1 expressly recites obtaining VOD server metering data that is determined using a server metering device different from a site metering device used to determine the subscriber metering data, and that is located separate from the first subscriber site being monitored. Clearly, *Aras*’ single Home Station located at the subscriber’s home fails to teach or suggest different server and

subscriber metering devices, with the server metering device being located separate from the subscriber site. Furthermore, *Aras* ' Home Station , which is purportedly used to determine the server data, interfaces with the distribution network used to convey AVM to the subscriber's home to enable decoding of the AVIs embedded in the AVM. (*Aras*, 5:34-67, 13:24-33.) In contrast, the server metering device recited in amended claim 1 communicatively couples to the VOD server using an interface separate from the distribution network used to convey the VOD content from the VOD server to the first subscriber site. For at least the foregoing reasons, the purported server and subscriber data determined by *Aras* ' single Home Station located at the subscriber's home and interfacing with the distribution network does not teach or suggest the server and subscriber metering data recited in amended claim 1, in which the server metering data is determined using a server metering device (1) different from the subscriber metering device, (2) located separate from the first subscriber site, and (3) communicatively coupled to the VOD server using an interface separate from the distribution network.

Additionally, *Aras* fails to teach or suggest server metering data uniquely identifying a first subscriber site. The Office action relies on a zip code included in *Aras* ' AVI Distribution Extension (AVI-ED) fields for purportedly describing server data that identifies a subscriber site. (See the Office action, p. 6.) However, *Aras* ' zip code can at most be used to identify a group of subscriber sites collectively located in the geographic region associated with the zip code, but fails to teach or suggest uniquely identifying a first subscriber site among a plurality of subscriber sites, as recited in amended claim 1. Therefore, *Aras* fails to teach or suggest the recited server metering data for at least this reason as well.

Link fails to overcome the deficiencies of *Aras* with respect to claim 1. For example, the Office action expressly noted that *Link* is not cited for teaching server metering data and subscriber metering data for use in monitoring VOD content. (See the Office action, p. 6.) Applicants' response to the previous Office action also explained how *Link* fails to teach or suggest the VOD server metering data recited in amended claim 1. Accordingly, amended claim 1 defines a nonobvious advance over the combination of *Aras* and *Link*. Therefore, withdrawal of the rejections of claim 1 and all claims depending therefrom under 35 U.S.C. § 103(a) is respectfully requested.

Claim 60

The Office action rejected independent claim 60 as being unpatentable over *Aras* in view of *Link* under 35 U.S.C. § 103(a). The applicants respectfully traverse this rejection.

Independent claim 60, as amended, recites an article of manufacture storing machine readable instructions that, when executed, cause a machine to, among other things, combine subscriber metering data and server metering data to monitor VOD content provided specifically to a first subscriber site, the server metering data identifying the VOD content provided by a VOD server specifically to the first subscriber site and also including an identifier to uniquely identify the first subscriber site, the subscriber metering data and the server metering data to be combined based on the unique identifier. The combination of *Aras* and *Link* fails to teach or suggest the server metering data recited in amended claim 60 for at least the following reasons.

For example, the Office action relies on a zip code of a local distribution node included in *Aras*' AVI Distribution Extension (AVI-ED) fields for purportedly

describing server data that identifies a subscriber site. (See the Office action, p. 6.)

However, a zip code is not an identifier capable of uniquely identifying a first subscriber site. Instead, a zip code can at most be used to identify a group of subscriber sites collectively located in the geographic region associated with the zip code, but fails to teach or suggest an identifier to uniquely identify the first subscriber site, as recited in amended claim 60. Furthermore, because *Aras* fails to teach or suggest server metering data including the identifier to uniquely identify the first subscriber site, *Aras* also necessarily fails to teach or suggest that subscriber metering data and the server metering data to be combined based on that identifier.

Similarly, *Link* fails to teach or suggest server metering data including an identifier to uniquely identify a first subscriber site, or subscriber metering data and the server metering data to be combined based on the unique identifier. As described in *Link*, “the asset viewership consolidator 214 combines the asset tag timestamp records 110 for the head end 301 with the [set-top box] STB aggregate data 109 to determine the consumer behavior with regards to individual assets.” (See *Link*, 10:51-54.). However, neither the asset tag timestamp records nor the STB aggregate data combined in *Link* include an identifier capable of uniquely identifying a first subscriber site. Instead, *Link*’s STB aggregate data includes a cluster code that, like *Aras*’ zip code, is at most able to identify a group (i.e., cluster) of STBs collectively associated with the cluster code, but is unable to uniquely identify a particular STB. (See *Link*, 8:28-46, 10:12-19.) Indeed, *Link* itself indicates that, due to its cluster code processing, “the possibility of tracking at the level of individual household may be lost.” (See *Id.* at 10:12-19.)

For at least the foregoing reasons, *Aras* and *Link*, individually and in combination, fail to teach or suggest the server metering data recited in amended

claim 60. Accordingly, withdrawal of the rejections of claim 60 and all claims depending therefrom under 35 U.S.C. § 103(a) is respectfully requested.

Art Rejections: Claim 72

The Office action rejected independent claim 72 as being unpatentable over *Aras* in view of *Link* under 35 U.S.C. § 103(a). The applicants respectfully traverse this rejection.

Independent claim 72, as amended, recites a system comprising a metering home interface to process a captured image to determine subscriber metering data corresponding to VOD content presented at a first subscriber site. The system recited in amended claim 72 also comprises a metering server interface to determine server metering data corresponding to a VOD server configured to provide VOD content specifically to the first subscriber site among a plurality of subscriber sites, the metering server interface being different from the metering home interface and located separate from the first subscriber site, the metering server interface communicatively coupled to the VOD server without being communicatively coupled to a distribution network used to convey the VOD content from the VOD server to the first subscriber site. The system recited in amended claim 72 further comprises a facility to combine subscriber metering data and the server metering data, the server metering data including an identifier to uniquely identify the first subscriber site, the subscriber metering data and the server metering data to be combined based on the identifier.

Amended claim 72 defines a nonobvious advance over the art relied upon by the Office action for at least the following reasons. For example, neither *Aras* nor *Link*, nor their combination, teaches or suggests a metering home interface to process a captured image to determine subscriber metering data corresponding to VOD

content presented at a first subscriber site. Additionally, the combination of *Aras* and *Link* fails to teach or suggest server metering data that is determined using a metering server interface (1) different from the metering home interface, (2) located separate from the first subscriber site, and (3) communicatively coupled to the VOD server without being communicatively coupled to a distribution network used to convey the VOD content from the VOD server to the first subscriber site. Furthermore, the combination of *Aras* and *Link* fails to teach or suggest server metering data including an identifier to uniquely identify the first subscriber site, or that subscriber metering data and the server metering data to be combined based on such an identifier.

Accordingly, amended claim 72 defines a nonobvious advance over the combination of *Aras* and *Link*, and withdrawal of the rejections of claim 72 and all claims depending therefrom under 35 U.S.C. § 103(a) is, therefore, respectfully requested.

Further Remarks

In general, the Office action makes various statements regarding the pending claims and the cited references that are now moot in light of the above. Thus, the applicants will not address such statements at the present time. However, the applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

The Commissioner is hereby authorized to charge any deficiency or any additional fees which may be required during the pendency of this application under

37 CFR 1.16 or 1.17 or under other applicable rules (except payment of issue fees) to
Deposit Account No. 50-2455.

In addition, if a petition for an extension of time under 37 CFR 1.136(a) is necessary to maintain the pendency of this application and is not otherwise requested in any accompanying papers, the applicants request that the Commissioner consider this paper to be a petition for an appropriate extension of time and hereby authorize the Commissioner to charge the fee as set forth in 37 CFR 1.17(a) corresponding to the needed extension of time to the above deposit account.

Respectfully submitted,

HANLEY, FLIGHT & ZIMMERMAN, LLC.
USPTO Customer Number 81905
(312) 580-1020

By: William E. Jacklin
William E. Jacklin
Registration No. 64,894

March 4, 2010